



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee solicits comment on the following proposals by April 1, 2016. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The Committee proposes amending the definition of a pistol in M Crim JI 11.3 and deletion of M Crim JI 11.6 in accord with the decision in *People v Humphrey*, __ Mich App __; __ NW2d __ (2015) (Docket No. 320353), holding that inoperability of a firearm is not a defense to firearms violations. Deletions are in strikethrough; added language is underlined.

[AMENDED] M Crim JI 11.3 Definition of Pistol

(1) A pistol is a firearm. A firearm includes any weapon from which a dangerous object can be shot or propelled by the use of explosives, gas, or air. [A firearm does not include smooth-bore rifles or handguns designed and manufactured exclusively for shooting BBs no larger than .177 caliber by means of spring, gas, or air.]

(2) The shape of the pistol is not important as long as it is thirty inches or less in length.

(3) ~~Also, It~~ does not matter whether or not the pistol was capable of firing a bullet, or whether it was loaded.

Use Note

Use bracketed material only where there is some question whether the weapon in question is a smooth-bore rifle or a handgun designed for shooting BBs no larger than .177 caliber.

M Crim JI 11.6 Defense-Firearm Inoperable [*Deleted*]

~~It is not against this law to carry a gun that is so [out of repair / taken apart with parts missing / welded together / plugged up] that it is totally unusable as a firearm and cannot be easily made operable.~~

This instruction was stricken as an incorrect statement of the law. *People v Humphrey*, __ Mich App __; __ NW2d __ (2015) (Docket No. 320353).